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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,598	04/27/2001	Junji Fujikawa	A-398	9504

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EXAMINER

ROSASCO, STEPHEN D

ART UNIT

PAPER NUMBER

1756

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/830,598

Applicant(s)

FUJIKAWA ET AL. *je*

Examiner

Stephen Rosasco

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-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

This is in response to the Amendment A of 3/31/03. The applicant has indicated that the IDS that was previously submitted with an International Search Report but not considered by the examiner must be considered, and was considered with this action.

Claim 1, which was amended to include the limitation of "not containing silicon", is objected to as new matter. A new rejection is added based on newly cited art and necessitated by the amendment to claim 1. The previous rejections are maintained and the action is made final.

The amendment filed 3/31/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the limitation of not containing silicon. The addition of a negative limitation that was not expressly taught as a negative limitation in the original disclosure is considered new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of not containing silicon is considered new matter. And the limitation of "main" metal component is not supported in the original specification or defined in the specification so that a meaning can be assigned to the term.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Mitsui et al. (6,087,047).

Mitsui et al. teach a half-tone phase shift mask and the blank for use in manufacturing a half-tone phase shift mask, comprising:

a transparent substrate; and

a semi-transparent film formed on said transparent substrate, wherein:

said semi-transparent film serves to shift the phase of an exposure light beam which transits said semi-transparent film with respect to the phase of an inspection light beam which directly transits said transparent substrate;

said semi-transparent film serves to reduce the strength of the exposure light beam, the exposure light beam having a first wavelength and a first transmittance and said inspection light beam having a second wavelength longer than said first wavelength and a second transmittance,

said semi-transparent film includes at least element M selected from the group consisting of a metal and a transition metal, silicon and nickel, and at least one selected from the group consisting of nitrogen, oxygen and hydrogen, the element M representing the metal and the transition metal other than the nickel, and the content of the nickel as a portion of total content of the silicon and the nickel in said semi-transparent film is selected so that the

inspection light beam has the second transmittance at which said phase shift mask blank can be inspected when the inspection light beam has the second wavelength.

Mitsui et al. also teaches that the metal or the transition metal which is a **main** constituent element of said semi-transparent film includes at least one selected from the group consisting of cobalt, **tantalum**, tungsten, molybdenum, chromium, vanadium, palladium, titanium, niobium, zinc, zirconium, hafnium, germanium, aluminum, platinum, manganese and iron.

REMARKS – The added limitations to claim 1 of the phase shift photomask “not containing silicon”, and having tantalum as a “main” metal component have been addressed in the rejections.

The newly cited art teaches all of the claimed limitations and the invention is directed to the problems that applicant has addressed of inspection.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Rosasco whose telephone number is (703) 308-4402.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661. Fax (703) 872-9310 Before Finals; 872-9311 After Finals.

A handwritten signature in black ink, appearing to read 'S. Rosasco', with a stylized, looped initial 'S'.

S. Rosasco  
Primary Examiner  
Art Unit 1756

S. Rosasco  
4/30/03